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CIVIL AND POLITICAL RIGHTS

Written statement submitted by the Andean Commission of Jurists,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[11 January 1999]

* Translation supplied by the submitting organization.

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1. In the Andean countries, the strengthening of the democratic institutions and the effective exercise of human rights is a task performed amid difficulties and interferences. Thus, it is necessary to strengthen of all the means favouring a State in which the rule of law fully prevails and to acknowledge the personality of the citizens as active subjects with rights and duties.
2. Excluding Colombia, political violence diminished and the population claims for a higher respect towards human rights. This does not mean to put a blind eye on other phenomena affecting human rights. Such as the impunity, the lack of guarantees for an independent, fair and fast justice, the increase in crime rates and in the lack of safety for citizens, the situation of prisons, and the serious impact on the exercise of economic and social rights.
3. As part of their pending agenda, the Andean States must provide a final solution to the impunity resulting from the amnesty laws passed in several of such countries in favour of those responsible for the violation of human rights.
4. Despite their efforts to improve justice administration and the reform procedures under application, problems persist and substantial levels of disapproval and distrust subsist among citizens with regard to the judicial system. Moreover, political interference in the justice administration system is evident in some countries.
5. On the other hand the situation in prisons does not show great advances. Riots, overcrowding and the disproportionate increase in the number of inmates due to the fact that criminal control policies are getting tougher, are important signs of this reality. A decrease in the high ratio of non-sentenced prisoners through laws setting a maximum limit for temporary detention pending trial may be a measure to improve this situation, together with a greater celerity in the trials.
6. As for **Bolivia**, this country has made remarkable advances in the institutional strengthening area through the election of the Ombudsman (Defensor del Pueblo) and the members of the Constitutional Court. However, the enforcement of the drug control policies and the police response to social conflicts affects, in certain occasions, the human rights of the population due to actions that have involved an excessive use of force by the police officers. Drug dealing also had an impact on the situation in prisons and uncovered the link between prison overcrowding and the enforcement of Law 1008.
7. In **Chile**, the detention of General Augusto Pinochet showed that the struggle against impunity is still an issue to be solved there, as well as in Colombia and Peru. It also showed the illegitimacy of the self-amnesty law passed in 1978 and the urgency of an International Criminal Court to prosecute those responsible of serious violations of human rights. This case also evidenced the huge weight that the armed forces still have in the process of democratic transition. Nevertheless, in relation to impunity, an important precedent has been set by the Supreme Court that in 1998 ruled that the

amnesty law was not applicable to some concrete cases under its jurisdiction and ordered the procedures to continue until the full identification of the responsible parties.

8. In **Colombia**, political violence persists and consequently the situation of human rights is still one of the main objects of interest of the international community. The confrontations have increased both in number and intensity. Nevertheless, the will to dialogue expressed by different parties may let us think that peace could become the main objective, even though it is too soon to guarantee that pacification will become a reality.

9. It is evident that it is still necessary to support the efforts of Colombia to re-establish a full and effective exercise of human rights resulting in a sustained peace, and consequently it is critical to guarantee the continuity and strengthening of the representation in Bogotá of the Office of the High Commissioner for Human Rights.

10. However, as for an issue with critical importance such as the insecurity situation in which the defenders of human rights work in Colombia, no political or legislative measures have been taken to guarantee their life and work. Other concrete measures must be taken in relation to the reform of military justice, the typification of the crime of forced disappearance of persons and genocide, the abolition of faceless judges and the prevention of forced displacement.

11. In **Ecuador**, the new Constitution has included important provisions in relation to the protection of human rights, both in the substantial part and in the procedures for their defence. Nevertheless, cases persist of violation of human rights by police officers, especially in those zones with high rates of criminality. Even though it can be seen that the Ecuadorian Government has a clear will to comply with its international commitments in the field of human rights, the excessive force with which police officers act is worrying.

12. **Peru** is one of the Andean countries that generates the greater number of concerns. The confrontations between the armed forces and the subversive groups continues diminishing and the cases of forced disappearance of persons, extrajudicial executions and arbitrary detentions have shown a remarkable reduction. However, those institutions in charge of guaranteeing the respect to legality and human rights are under permanent attack, and consequently the capacity to control the enforcement of laws is seriously deteriorated. Add to this the worrying expansion of the competencies of Military Justice, the persecution against renowned persons opposed to the Government, the attempts against freedom of speech, and the veto to the referendum as a right of political participation of the people.

13. All this of course must not make us forget the positive developments in 1998, such as the procedures carried out by the People Defender's Office, the typification of the crimes against humankind and torture, or the extension of the terms given to the Ad Hoc Committee for the recommendation of amnesty for those persons mistakenly sentenced for terrorism crimes.

14. In Venezuela, despite the efforts made by the Government, the situation in prisons did not improve. However, the judiciary reform and the put in force of the new Code for Criminal Procedures may in the future help to improve to a certain extent the serious crisis in a penitentiary system that for years has been the weakest point in the full and effective exercise of civil and political rights. As in previous years, the main violations of human rights were committed by police officers, which shows the deficiencies in the operation procedures of the police forces.

15. The complex situation of human rights in the Andean region and the fact that it is repeated at a higher or lower level in different parts of the world, makes it difficult for the United Nations to provide an effective and close attention to all the events and situations submitted to it for its consideration. Consequently, the rationalization of the international supervision mechanisms of the Human Rights Commission must be aimed at strengthening them in relation to the particular nature and contents of the different rights and the situations under its jurisdiction. It is obvious that the organization requires to undergo certain adjustments in relation to administration and budget rationalization. However, this must in no case imply a subordination of or a decreased attention to the protection and promotion of human rights, which is one of the main objectives of the existence of the United Nations.

16. It is also important not to forget that the Special Rapporteurs and Working Groups must not only focus their work on the situation of human rights when there is already a detriment in the exercise thereof. They must have mainly a role of permanent observation worldwide of the issues under their mandate in order to act in a preventive manner whenever signs may appear of situations that could in the future degenerate into one threatening human rights. In the concrete situation of the Andean countries, where, for instance, 11,000 cases of persons disappeared in a forced manner or against their will exist, it would be counter-productive to convert the Working Group on Forced or Involuntary Disappearances into a Special Rapporteur. Reality shows that such a measure would not be the most adequate manner of rationalization.

17. Concretely, torture, forced and involuntary disappearance, arbitrary detention, lack of independence of the judiciary, impunity, not only in the Andean region but in the whole world, make it necessary not only a punctual and determined action from the United Nations in all its areas but also require to reinforce the mandates in force.